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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,353	08/28/2003	William Charles Sahm	8350.2341	3027
7590	01/10/2005		EXAMINER [REDACTED]	SWARTHOUT, BRENT
Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. 1300 I Street, N.W. Washington, DC 20005-3315			ART UNIT [REDACTED]	PAPER NUMBER 2636

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/653,353	SAHM ET AL.
	Examiner Brent A Swarthout	Art Unit 2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10-16-03.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

a. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henderson et al. in view of Clegg.

Henderson discloses a method and device for displaying positional information for a work machine comprising displaying a terrain map of a geographic area in plan or profile views (col.7, line 24), monitoring position of a ground engaging tool and identifying elevation of the tool (col.5, lines 39-51), and continuously updating the display when there is a change in the actual surface elevation due to engagement with the tool (col.5, line 63- col.6, line 6), except for specifically stating that the terrain map includes a plurality of elevation segments.

Clegg discloses a display device showing work tool with respect to a terrain map, wherein the map includes plural terrain elevations (Fig. 4).

It would have been obvious to display plural terrain elevations as suggested by Clegg in conjunction with a display as disclosed by Henderson, in order to customize a display depending on what a desired site geography was supposed to look like.

Regarding claim 2, Henderson teaches that site map is updated based on the work tool engaging the terrain (col. 5, line66- col.6, line 2).

Regarding claim 3, Henderson teaches identifying and displaying desired surface configuration with respect to actual configuration (col. 5, lines 38-51).

Regarding claim 4, Henderson teaches display of ground tool position with respect to desired configuration (col.5, line 38-51).

Regarding claim 5, ground tool has sensing means (col. 6, lines 25-30).

Regarding claim 6, backfilling would result in updating display (col.5, line 63-col.6, line2; col.7, line 26).

Regarding claim 9, Henderson teaches storing desired surface configuration (col. 3, lines 27-30).

Regarding claim 12, since Henderson teaches that positioning system on the machine is used to provide machine or tool position, and that the machine comprises plural portions including boom, stick and bucket (col. 6, lines 18-20), choosing to use plural sensors would have been obvious, merely depending on whether positioning of less than a few centimeters accuracy was desired.

Regarding claim 14, Henderson teaches that the work machine can use traction device and housing (Fig. 4).

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hall, Savard, Stentz, and Davidson disclose work machine devices.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent A Swarthout whose telephone number is 571-272-2979. The examiner can normally be reached on M-F from 6:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass, can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Brent Swarthout*  
Brent A Swarthout  
Examiner  
Art Unit 2636

BRENT A. SWARTHOUT  
PRIMARY EXAMINER